

Issued October 31, 1913.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 2556.

(Given pursuant to section 4 of the Food and Drugs Act.)

U. S. v. 1,938, 500, and 1,004 Cases of Sardines. Tried to a jury. Verdict in favor of the Government. Decree of condemnation and forfeiture. Product released on bond.

ADULTERATION OF SARDINES.

On December 29, 1910, the United States Attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 1,938 cases of sardines remaining unsold in the original unbroken packages and within the premises located at 918 Duquesne Way, occupied as a wholesale grocery warehouse, Pittsburgh, Pa., alleging that the product had been shipped on or about November 1, 1910, by L. D. Clark & Son, Eastport, Me., and transported from the State of Maine into the State of Pennsylvania, and charging adulteration in violation of the Food and Drugs Act. One thousand six hundred and ten cases of the product were labeled: "Packed at Eastport, Wash'n Co., Maine, by L. D. Clark & Son." The cans in said cases were labeled: "Clark brand American Sardines, Packed in Cottonseed oil, Packed at Eastport, Washn Co., Maine, by L. D. Clark & Son, Serial No. 8061." Three hundred twenty-eight cases were labeled: "Packed at Eastport, Washn. Co., Maine, by L. D. Clark & Son." The cans in said cases were labeled: (On each side) "Clark Brand." (On one end) "Packed at Eastport, Washington Co., Me., by L. D. Clark & Sons, Serial 8061."

Adulteration of the product was alleged in the libel for the reason that it consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance and was unfit for food.

On June 17, 1912, the case having come on for a hearing before the court and a jury, after submission of evidence and argument by counsel, on June 19, 1912, a verdict favorable to the government was returned by the jury in the words following: "We do further find that said sardines do consist in whole or in part of filthy, decomposed, or putrid animal or vegetable matter." On June 20, 1912, Andrew Clark, doing business as L. D. Clark & Son, filed his motion for a new trial, which motion on January 27, 1913, was refused by the court. On said 27th day of January, 1913, the court entered its decree of condemnation and forfeiture, and ordered that the product should be delivered to said claimant upon payment of the costs of the proceedings, a good and sufficient bond in the sum of \$500 having been executed by the claimant in conformity with section 10 of the Act.

The libels that had been filed for the seizure and condemnation of 500 cases of sardines and 1,004 cases of sardines were on July 12, 1911, on motion of said United States Attorney, discontinued, and the product released to the Columbian Canning Co., of Lubec, Me., and E. W. Brown Co., Portland, Me., respectively, claimants.

B. T. GALLOWAY,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 4, 1913.*